REMARKS / DISCUSSION OF ISSUES

Claim 1 and 3-9 are pending in the application. Claim 9 is new. Unless indicated to the contrary, claims are amended for non-statutory reasons to delete European-style phraseology. No new matter is added.

Allowable Subject Matter

Applicants gratefully acknowledge the indication of allowability of the subject matter of claims 2-8. Claim 1 has been amended to include the subject matter of claim 2, rendering claim 1 in condition for allowance. Claims 3-8 depend from claim 1 directly or indirectly, and too are in condition for allowance as a result of their dependence.

Rejections under 35 U.S.C. § 102

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by *Holthaus, et al.* (US Patent 5,832,076). Claim 1 is now in condition for allowance for at least the reasons set forth above. However, to the extent that *Holthaus, et al.* could be applied to new claim 9, Applicants respectfully submit that claim 9 is patentable over the reference.

At the outset, Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen,* 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.,* 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be

no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Claim 9 is drawn to a microphone, and features:

"*an analog-to-digital converter (ADC) having an input connected to an output of the microphone, wherein the ADC converter converts a signal generated by the microphone into a digital signal at an output of ADC and supplies a bias signal to the microphone.*"

The Office Action directs Applicants to column 4, lines 7-19 of *Holthaus, et al.* for the alleged disclosure the bias supply from the ADC. Applicants respectfully disagree. The noted portion of *Holthaus, et al.* states:

> "...Transformer T1 passes the charging and discharging waveforms to A-to-D converter 22. Transformer Ti also serves to electrically isolate circuit 20 from microphone 12. These charging and discharging waveforms are digitized by A-to-D converter 22 (by methods and means well known in the art) and introduced through line 30 to DSP 24 where they can be processed to derive information regarding presence and polarity of DC bias voltage at microphone 12.
>
> Operation of circuit 20 is as follows. DSP 24 instructs switch 26 to close (become conducting). Any microphone bias voltage at microphone 12 will cause capacitor C1 to begin charging. A-to-D converter 22 samples line 32 at 12 Khz (in the preferred embodiment), converts those samples to digital signals and passes that information via line 30 to DSP 24. The charging transient of capacitor C1 when switch 26 is closed therefore is in effect measured."

The Examiner relies in the instructing of the switch 26 by the DSP 24 to close. This causes the capacitor C1 to begin charging from a ***bias voltage at the microphone 12***. Thus, the engagement of the switch 24 causes the bias voltage at the microphone to be discharged **to a capacitor**. By contrast, the ADC of claim 9 supplies a bias signal **to the microphone.**

The purpose of the charging of the capacitor C1 function may be found in the Abstract of *Holthaus, et al.* To this end, the reference is directed to an apparatus for determining the presence and polarity of DC bias voltage at a telephone microphone. A circuit converts the DC bias voltage across the microphone into a pulsed signal that charges a capacitor. By determining averages of the charging and discharging signals,

and sampling the signals to convert them into digital signals, a DSP can be used to determine if a bias is across the microphone. **Thus, rather than supplying a bias to the microphone as claimed, the applied art teaches determining if a bias voltage is present across the microphone.** Therefore, Applicants respectfully submit that the applied art fails to disclose at least one feature of claim 9, and cannot serve to establish a *prima facie* case of anticipation. As such, and for at least these reasons, claim 9 is patentable over the applied art.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.

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